IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 361 of 2004

MANSUKHI
V/S
U.I.T.,UDAIPUR

Mr. SAJJAN SINGH, for the appellant / petitioner

Date of Order : 30.3.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant.

Learned Courts below have dismissed the appellant's suit for injunction and declaration. The plaintiff claims to be in possession of the property having been purchased from the person, who is said to be holding Patta from the Gram Panchayat, while the U.I.T. gave notices to the plaintiff alleging the plaintiff to be in unauthorised occupation of the U.I.T. land, being Araji No.973. Therefore, notice under Section 92-A of the Rajasthan Urban Improvements Act was given to the plaintiff. In these circumstances, the plaintiff filed the suit for declaration, and injunction.

The learned trial Court found that the plaintiff has failed to prove to be having any title over the land in question, and the U.I.T. has proved that the land in question is part of Araji No.973, which the plaintiff has failed to rebut. It has further been noticed that it is not established that the Patta was validly issued after fulfilling all necessary requirements of the Old Panchayat Act, and stock argument has been projected about the record being not available. However, learned trial Court has found that the record remains with the office of Assistant Collector, and Zila Parishad, where-from the plaintiff could obtain the record. Regarding the sale-deed in favour of the plaintiff, it has been found that the document is of the year 1995, and is not registered, nor sufficiently stamped, and therefore, the document is not even admissible in evidence. These findings have been affirmed by the learned Lower Appellate Court.

In my view, the findings recorded are pure findings of facts, and it is not in dispute that the sale-deed in favour of the appellant is an unregistered document, and therefore, in my view, it is also not admissible in evidence at all. Even if the document were to be admissible in evidence for collateral purpose, still firstly, the Patta relates to the land in Gram Panchayat Tatardi, while this document is with respect to the land situated in village Savina, and thus, it is not shown to be relating to the land covered by the Patta, and secondly, since the document is of the year 1995, and the suit has been filed in the year 1996 itself, even if the plaintiff were to claim to be in possession under the sale-deed, it cannot be said that he has perfected any title.

Thus, I do not find any error in the impugned judgments giving rise to any substantial question of law.

The appeal thus, has no force, and is dismissed summarily.

(N P GUPTA),J.

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